

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

_____	:	
ALLEN DUPREE GARRETT,	:	
	:	
Plaintiff,	:	Civ. No. 20-2525 (NLH) (MJS)
	:	
v.	:	OPINION AND ORDER
	:	
	:	
KAREEKA Z. JOHNSON, et al.	:	
	:	
Defendants.	:	
_____	:	

APPEARANCE:

Allen Dupree Garrett
501 Liberty Street
Camden, NJ 08104

Plaintiff Pro se

HILLMAN, District Judge

WHEREAS, on August 11, 2020, Plaintiff Allen Dupree Garrett, appearing pro se, filed an application to proceed in forma pauperis, ECF No. 10; and

WHEREAS, on November 18, 2020, the Court issued an Opinion explaining that Plaintiff's current action was subject to the three-strikes provision of 28 U.S.C. § 1915(g). ECF No. 13. For this reason, the Court entered an Order directing Plaintiff to submit a sworn statement demonstrating imminent danger of serious physical injury within 30 days, ECF No. 14; and

WHEREAS, on November 18, 2020, the Court received a letter from Plaintiff dated November 15, 2020 notifying this Court that

he wished to terminate his case pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), ECF No. 15; and

WHEREAS, the Court dismissed this action without prejudice on November 19, 2020, ECF No. 16; and

WHEREAS, on March 10, 2021, Plaintiff filed a motion requesting the Court to reopen this matter and appoint him pro bono counsel, ECF No. 17; and

WHEREAS, the Court denied the motion to reopen and to appoint counsel because Plaintiff had not provided any facts suggesting he was in imminent danger of serious physical injury as required by the Court's November 18, 2020 Order, ECF No. 19. Plaintiff appealed that order. ECF No. 20; see also Garrett v. Johnson, No. 21-1654 (3d Cir. filed Apr. 7, 2021); and

WHEREAS, the Third Circuit dismissed Plaintiff's appeal on February 16, 2022 pursuant to F.R.A.P. 3(a) and LAR 3.3 and Misc. 107.1(a) because Plaintiff had not paid the filing fee. ECF No. 23; and

WHEREAS, on September 1, 2022, Plaintiff filed his second motion for the appointment of pro bono counsel, ECF No. 29; and

WHEREAS, this Court, and the Third Circuit, have repeatedly informed Plaintiff that this matter cannot proceed unless and until Plaintiff pays the full \$350 filing fee and \$52 administrative fee. Plaintiff has not paid the required fees; and

WHEREAS, there is no right to counsel in a civil case, see Tabron v. Grace, 6 F.3d 147, 153-54 (3d Cir. 1993). The Court may request an attorney to represent any person unable to afford counsel, but the complaint must first have some "arguable merit in fact and law." Id. at 155. The Court cannot review the complaint's merits because Plaintiff has not paid the filing fee; and

WHEREAS, the Court will deny the motion without prejudice. Plaintiff may reapply for counsel once he has paid the \$402 filing and administrative fees; and

WHEREAS, the Court will take no further action in this matter until the fees are paid.

THEREFORE, IT IS on this 4th day of January, 2023

ORDERED that the Clerk shall reopen this matter for purposes of entering this Order; and it is further

ORDERED that the motion for the appointment of pro bono counsel, ECF No. 29, shall be, and hereby is, DENIED WITHOUT PREJUDICE; and it is further

ORDERED that the Court will take no further action in this matter until the \$350 filing fee and \$52 administrative fee are paid; and it is finally

ORDERED that the Clerk shall send a copy of this Order to Plaintiff by regular mail and mark this case CLOSED.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.